

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/30/2023

ANDREW TORO, on behalf of himself and
all others similarly situated,

Plaintiff,

-against-

Awesome Diecast, LLC,

Defendant.

1:23-cv-810

ORDER OF DISMISSAL

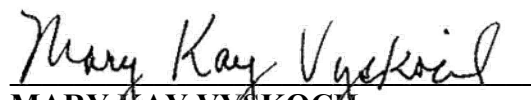
MARY KAY VYSKOCIL, United States District Judge:

A review of court records indicates that the complaint in this action was filed on January 31, 2023. [ECF No. 1]. On May 17, 2023, the Court directed plaintiff, who had done nothing to prosecute the case, to serve the summons and complaint on the defendant on or before May 24, 2023. [ECF No. 5]. The Court warned that “if plaintiff fails to show cause, in writing, why service has not been made, the complaint will be dismissed for failure to prosecute pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure.” ECF No. 5.

To date, no proof of service of the summons and complaint has been filed and plaintiff has not prosecuted this case. Accordingly, IT IS HEREBY ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court’s calendar if the application to restore the action is made by June 30, 2023. If no such application is made by that date, today’s dismissal of the action is with prejudice. *See LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

SO ORDERED.

**Date: May 30, 2023
New York, NY**


MARY KAY VYSKOCIL
United States District Judge